

Application No. 10/711,328
Amendment dated December 7, 2005
Reply to Office Action of September 7, 2005

060494-0002

REMARKS/ARGUMENTS

In the Office Action the drawings were objected under CFR 1.83(a). In view of the claim amendments, however, Applicant believes that these drawings are not required. Further, the claims of the present invention have been amended as discussed below:

Interview Summary:

Attorney Sonali S. Srivastava had two interviews with Examiner Darren W. Gorman on 17th October 2005 and 8th November 2005. In the first interview, rejections and objections laid out in the Office Action were discussed in detail, especially in view of Halter et al. reference. In the second interview, a proposed draft of claims was provided distinguishing the Halter et al reference. In the proposed set of claims, however, the Examiner noted that the term "untreated," if introduced in the claim would comprise new matter and heating/screening/crushing glass could be deemed as treatment as well. The Examiner also indicated that the proposed amendments to dependent claims reciting steps of preparing the crushed glass would likely overcome the rejections of those claims under 35 USC 112, 2nd paragraph.

Status of Claims:

In the application, claims 1, 2, 4, 6, 8-28 are currently pending, of which claims 18-28 have been withdrawn from consideration and claims 1, 2, 4, 6, 8-17 are presented here for consideration. Of the pending claims, claims 1, 2, 4, 8, 10, 11, 13, 14, 17, 20, 23 and 24 are currently amended. Claims 3, 5 and 7 are cancelled without prejudice.

Application No. 10/711,328
Amendment dated December 7, 2005
Reply to Office Action of September 7, 2005

060494-0002

Claim Rejections under 35 U.S.C. § 112 (2nd)

Claims 3-5, 7-11, 13 and 15-17 were rejected under 35 U.S.C. 112, second paragraph for being indefinite for failing to particularly point out and distinctly claim the subject matter. As amended, claims 3-5, 7-11, 13 and 15-17 currently point out and distinctly claim a method of using crushed glass for extinguishing fire from a fire-containing surface. Accordingly, Applicant respectfully requests reconsideration of Section 112, paragraph rejection for claims 3-5, 7-11, 13 and 15-17.

Claim Rejections under 35 USC § 102:

In the Office Action, claims 1 and 2 were rejected under 35 U.S.C. Section 102(b) as anticipated by Halter US Patent 5,061,382. The '382 patent generally teaches a fire control and extinguishing composition comprising crushed glass particles which have been treated with hydrophobic coating so that agglomeration of fire control composition due to moisture during storage and use is substantially prevented. (See abstract and Col. 11, lines 3-6). In fact, the powder in this particular composition includes 59.6% silicone-coated crushed glass cullet, 20% stearate-coated sodium bicarbonate, stearate-coated potassium chloride and AEROSIL. Overall, Halter teaches use of chemically treated glass for extinguishing heavy oil, magnesium and sodium fires (Col. 11, lines 3-6).

In contrast to the above referenced patents and publications, the present invention as claimed in amended claim 1, teaches a method of using crushed glass for extinguishing fire from a fire containing surface, comprising the step of: applying said glass to the fire containing surface, wherein said glass is formed by the process of (a) crushing glass using an impact crusher, hammer mill, cone crusher or a roller crusher; (b) screening the crushed glass using at

Application No. 10/711,328
Amendment dated December 7, 2005
Reply to Office Action of September 7, 2005

060494-0002

least one mesh; and (c) drying the crushed glass at least to 100°F; whereby intensity of fire is reduced from the surface. Most notably, unlike in Halter, where the glass is chemically treated with silicone an other agents or chemicals, the present invention uses *chemically untreated* crushed glass for extinguishing fire from a fire containing surface. Lack of chemical treatment has numerous advantages, including not introducing a new chemical is an environment. For example, in open seas or local rivers where an oil-spill/oil-fire has occurred, there is significant environmental damage, which negatively affected its flora and fauna. Presence of additional chemicals as described in Halter may only enhance the damage by altering the pH of the surrounding. Further, adding no chemicals eliminates a costly step in the manufacturing process of such crushed glass. Through the currently claimed invention, refuse glass from recycling centers without further chemical treatment, is capable of being further recycled for constructive uses. More importantly, the waste glass, which would otherwise occupy space in a landfill, is useful for environmental remediation, especially as associated with oil spills/oil-fires on high seas or land.

Since all elements of the claimed invention, namely the “method of using crushed glass for extinguishing fire from a fire containing surface, comprising the step of: applying said glass to the fire containing surface, wherein said glass is formed by the process of (a) crushing glass using an impact crusher, hammer mill, cone crusher or a roller crusher; (b) screening the crushed glass using at least one mesh; and (c) drying the crushed glass at least to 100°F; whereby intensity of fire is reduced from the surface,” is not taught by the Halter’s disclosure, Applicant believes that the present invention as claimed is not anticipated by Halter’s disclosure. Furthermore, Halter’s disclosure, whether taken singly or taken in combination with other references does not teach or suggest Applicant's claimed invention.

Application No. 10/711,328
Amendment dated December 7, 2005
Reply to Office Action of September 7, 2005

060494-0002

Applicant therefore requests the Examiner to reconsider the Section 102 (b) rejections in view of the above arguments and amendments.

Rejection under 35 USC § 103:

Claims 3-17 were rejected under 35 U.S.C. Section 103(a) as being obvious over Halter et al. As discussed above, Halter teaches use of *chemically treated glass* for extinguishing various fires, which certainly has limitations of introducing new chemicals in the environment and adding a step in manufacturing of glass if produced according to Halter's disclosure. Accordingly, Halter does not teach use of chemically *untreated* glass as claimed in amended claim 1. Therefore, a claimed element is completely missing from the combination of cited references.

Further, it is not obvious to use preferentially, for example, a roller crusher for producing the crushed glass of this invention, when it has not been recognized as a superior technique in the art. One of ordinary skill in the art cannot determine without conducting undue experimentation, that this roller crusher produces better results than other crushing techniques as discussed in paragraph [0028]. The inventor has observed that better oil adsorption occurs when the glass is crushed using a roller crusher. See paragraph [0028].

Further as to use of crushed colored glass in claim 6, Applicant notes that since oil is better adsorbed on colored glass than on colorless glass [see paragraph 33], accordingly, in certain cases, for example, in oil-fires, use of colored glass for extinguishing oil-fires may be more effective than use of non-colored/clear glass.

Application No. 10/711,328
Amendment dated December 7, 2005
Reply to Office Action of September 7, 2005

060494-0002

The combination of teachings cited do not teach using crushed glass as described above, where the crushed glass has not been chemically treated. Accordingly, Applicant respectfully requests that claims 3-17 be reconsidered and obviousness rejection over Halter be withdrawn based on Section 103(a).

Information Disclosure Statement

Applicant is providing a supplemental IDS, listing the references cited in the International Search Report of a related application issued on November 10, 2005 and parent Application 10/709,172.

* * *

CONCLUSIONS

Finally, Applicant believes that independent claim 1, as amended is currently allowable and also claims 2, 4, 6 and 8-17, which depend from this independent claim 1. Applicant believes that all the issues have been correctly addressed and earnestly solicit a favorable action.

Application No. 10/711,328
Amendment dated December 7, 2005
Reply to Office Action of September 7, 2005

060494-0002

It is respectfully submitted that claims 1, 2, 4, 6, 8-17 are in condition for allowance and notice to that effect is earnestly solicited. The Examiner is urged to telephone the undersigned in the event a telephone discussion would be helpful in advancing the prosecution of the present application. The Office is further authorized to charge the processing fee or any other surcharges, including surcharges for filing Information Disclosure Statement, or underpayment, including extension of time, as deemed necessary and appropriate to the Deposit Account 07-1509 of Godfrey & Kahn, S.C.

Respectfully submitted,

GODFREY & KAHN, S.C.

Dated: _____

12/7/05

By: _____



Sonali S. Srivastava
Registration No. 52,248

Attorneys of Record
GODFREY & KAHN, S.C.
780 North Water Street
Milwaukee, WI 53202-3590
(414) 273-3500

MN250920_4.DOC

MN250920_4.DOC

11